

#8  
2/23/01

Docket No. 740301-415

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Harry Michael O'Sullivan

Serial No. : 09/835,464

Filed : April 17, 2001

For : CELLULAR TELEPHONE DATA  
COMMUNICATION SYSTEM AND  
METHOD

)  
)  
) Group Art Unit:  
) 2681  
)

) Examiner:  
) N. Maung

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**DEC 07 2001**

**Technology Center 2600**

**REQUEST FOR SUSPENSION OF ACTION UNDER 37 CFR 1.103(a)**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

The applicant respectfully requests a six (6) month suspension of action in the above-identified application. Submitted herewith is the requisite fee under 37 CFR 1.17(h) in the amount of \$130.00. A second preliminary amendment was filed in the instant application on July 24, 2001, in which claims 1-25 were canceled and new claims 26-30 drawn to a cellular computer data transmission interface device were added. In order to assist the Examiner in considering this request for suspension, the application file history is set forth as follows:

- This application is a divisional reissue of earlier Application Serial No. 08/436,863, now USP Re 37, 141, which issued with claims 26-39 drawn to a cellular data transfer interface devices and a system for transferring data over a cellular network from a computer;

- which in turn is a continuation of Application Serial No. 07/930,251, filed August 17, 1992 (abandoned);

- which in turn is a division of Application Serial No. 07/414,468, filed September 29, 1989, now USP Re 34,034, drawn to a method, system and interface device for transmitting data

over a cellular network to disconnect after a prescribed period of loss of signal and to provide error correction;

- which in turn is a reissue of Application Ser. No. 06/839,564, filed Sep. 29, 1987, now USP 4,697,281, drawn to a method , system and interface device for transmitting data over a cellular network to disconnect after a prescribed period of loss of signal and to provide error correction;

- which in turn is a continuation-in-part of Application Serial No.06/786,641, filed October 11, 1985 (abandoned).

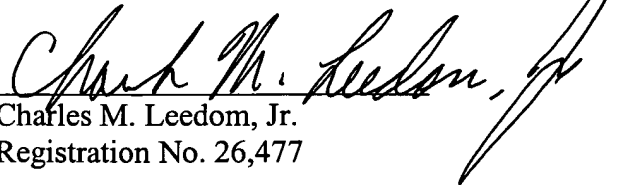
During the period of time following the issuance of the original USP 4,697,281, the inventor, Michael O'Sullivan, was asked to evaluate a group of patents assigned to competitors of the assignee of the '281 patent, and during the course of this evaluation, the applicant became aware of the fact that the original '281 patent claims 1-25 set forth the invention too narrowly, i.e., the applicant claimed in the '281 patent less than he had a right to claim. Since this was an error without deceptive intent, the applicant/patentee filed the reissue applications, Serial Nos. 07/414,468, 07/930,251, 08/436,863, and the instant 09/835,464, within the period permitted by statute 35 U.S.C. 251 for purpose of presenting broadened reissue claims.

However, during follow-up third party discussions with potential licensees/infringers after the filing of the instant application, on April 17, 2001, the applicant has been made aware that he may still have claimed less than he had a right to claim in the original application that issued as the '281 patent. Therefore, it appears that the applicant will need to file a another (preliminary) amendment to further amend the claims to more accurately set for the subject matter to which the applicant has a right to claim. In order to do this, the discussions with various third parties are continuing, and the applicant fully expects those discussions to conclude within the six month period set out in this request for suspension of action. Additionally, failure to grant this request for suspension will cause unneeded financial hardship on the applicant and assignee by necessitating the filing of yet another divisional reissue and result in a shortened patent term for any patent issuing therefrom caused by the continued delay by the USPTO in examining and issuing any newly filed reissue application.

The Examiner's prompt consideration of this request would be greatly appreciated.

The Commissioner is hereby authorized to charge any fees which may be further required in this application, except the issue fee, or credit any overpayment to Deposit Account No. 19-2380, under the above docket number.

Respectfully submitted,

  
Charles M. Leedom, Jr.  
Registration No. 26,477

NIXON PEABODY LLP  
8180 Greensboro Drive  
Suite 800  
McLean, VA 22102  
Tel: (703) 790-9110  
Fax: (703) 883-0370

CLM/JWM

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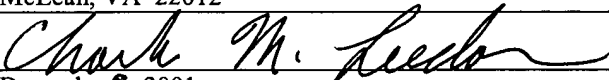
Approved for use through 10/31/2002. OMB 0651-0031

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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<b>RECEIVED</b> <b>DEPT. OF COMMERCE</b> <b>TECHNOLOGY CENTER 2600</b> <b>FORM</b> <i>(to be used for all correspondence after initial filing)</i>	<b>Application Number</b>	09/835,464	
	<b>Filing Date</b>	April 17, 2001	
	<b>First Named Inventor</b>	Harry Michael O'Sullivan	
	<b>Group Art Unit</b>	2681	
	<b>Examiner Name</b>	N. Maung	
<b>Total Number of Pages in This Submission</b>		<b>Attorney Docket Number</b>	740301-000415

ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Request for Suspension of Action under 37 CFR 1.103(a) <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	<u>Charles M. Leedom, Jr. (Reg. No. 26,477)</u> Nixon Peabody LLP 8180 Greensboro Drive Suite 800 McLean, VA 22012
Signature	
Date	December 9, 2001

CERTIFICATE OF MAILING	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Washington, DC 20231 on this date: <span style="border: 1px solid black; padding: 2px 20px;"> </span>	
Type or printed name	
Signature	Date _____

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FEE TRANSMITTAL  
FOR FY 2001  
Technology Center 2600

Patent fees are subject to annual revision.

<b>Complete if Known</b> Application Number 09/835,464 Filing Date April 17, 2001 First Named Inventor Harry Michael O'Sullivan Examiner Name N. Maung Group Art Unit 2681			
		TOTAL AMOUNT OF PAYMENT (\$)	130.00
		Attorney Docket No.	740301-415

METHOD OF PAYMENT	FEE CALCULATION (continued)																																																																																																																																																																																																
<b>1. <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:</b> Deposit Account Number 19-2380 Deposit Account Name Nixon Peabody LLP <input checked="" type="checkbox"/> Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17 <input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27	<b>3. ADDITIONAL FEES</b> <table border="1"> <thead> <tr> <th>Large Entity Fee Code</th> <th>Small Entity Fee Code</th> <th>Fee (\$)</th> <th>Fee (\$)</th> <th>Fee Description</th> <th>Fee Paid</th> </tr> </thead> <tbody> <tr><td>105</td><td>130</td><td>205</td><td>65</td><td>Surcharge - late filing fee or oath</td><td></td></tr> <tr><td>127</td><td>50</td><td>227</td><td>25</td><td>Surcharge - late provisional filing fee or cover sheet</td><td></td></tr> <tr><td>139</td><td>130</td><td>139</td><td>130</td><td>Non-English transaction</td><td></td></tr> <tr><td>147</td><td>2,520</td><td>147</td><td>2,520</td><td>For filing a request for <i>ex parte</i> reexamination</td><td></td></tr> <tr><td>112</td><td>920*</td><td>112</td><td>920*</td><td>Requesting publication of SIR prior to Examiner action</td><td></td></tr> <tr><td>113</td><td>1,840*</td><td>113</td><td>1,840*</td><td>Requesting publication of SIR after Examiner action</td><td></td></tr> <tr><td>115</td><td>110</td><td>215</td><td>55</td><td>Extension for reply within first month</td><td></td></tr> <tr><td>116</td><td>390</td><td>216</td><td>195</td><td>Extension for reply within second month</td><td></td></tr> <tr><td>117</td><td>890</td><td>217</td><td>445</td><td>Extension for reply within third month</td><td></td></tr> <tr><td>118</td><td>1,390</td><td>218</td><td>695</td><td>Extension for reply within fourth month</td><td></td></tr> <tr><td>128</td><td>1,890</td><td>228</td><td>945</td><td>Extension for reply within fifth month</td><td></td></tr> <tr><td>119</td><td>310</td><td>219</td><td>155</td><td>Notice of Appeal</td><td></td></tr> <tr><td>120</td><td>310</td><td>220</td><td>155</td><td>Filing a brief in support of an appeal</td><td></td></tr> <tr><td>121</td><td>270</td><td>221</td><td>135</td><td>Request for oral hearing</td><td></td></tr> <tr><td>138</td><td>1,510</td><td>138</td><td>1,510</td><td>Petition to institute a public use proceeding</td><td></td></tr> <tr><td>140</td><td>110</td><td>240</td><td>55</td><td>Petition to revive - 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\*\*or number previously paid, if greater; For Reissues, see above

SUBMITTED BY Complete (if applicable)